

**SPECIAL COURT FOR SIERRA LEONE
OUTREACH AND PUBLIC AFFAIRS OFFICE**



Harford School for Girls, Moyamba

PRESS CLIPPINGS

**Enclosed are clippings of local and international press on the Special Court and related issues obtained by the Outreach and Public Affairs Office
as at:**

Wednesday, 25 May 2011

Press clips are produced Monday through Friday.
Any omission, comment or suggestion, please contact
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New Vision
Wednesday, 25 May 2011

“I led rebels to loot villages”

Since the war was declared over in Sierra Leone, Brima Kay alias ‘laugh to me’ of Madina village, Makari Gbanti chiefdom, Bombali district has been living in constant fear. His fear was that even though the guns were silent and there was no pending attacks, he would be confronted one day for the role he played during the conflict.

The former collaborator was accused by Ibrahim Kamara of leading gun wielding rebels to Matoko and other villages in the Makari Gbanti chiefdom to loot property belong to poor villagers. According to Kamara, Brima led the rebels to Matoko village to loot foodstuff and other items. He was giving testimony during Fambul Tok traditional ceremony in Madina village over the weekend

“I met him on the way and he told me he was going to see the town chief of Matoko but surprisingly when we met for the second time, he was in the midst of rebels with a lot of looted property. I noticed that one of the goats was taken away and when I enquired I was beaten up” Kamara testified

The victim went on to state that since the war ended, he had always planned to revenge

Responding to allegation levied against the perpetrator, Brima explained how he was captured by rebels and forced to go to villages to find food. He said he took the rebels to Matoko.

“You all know that during the war people were forced to do things



against their wish and this was what happened to me. Had I refused I would have been a dead man” Brima told the gathering

He continued, “I’m sorry for everything and asking for forgiveness”

The Fambul Tok reconciliation committee intervened and asked Kamara and all those Brima had wronged to forgive him and accept him once more as their own brother. Both men embraced each other

A Troubled Judiciary

ISSUES

BY A (RTD) HIGH COURT JUDGE

Six years ago, the heir to the British Throne, His Royal Highness, The Prince of Wales, Prince Charles, in a speech delivered in Freetown, commented that we in Sierra Leone have a 'Troubled Judiciary'.

As a retired High Court Judge of over forty years standing in the High Court of Sierra Leone, those words are ringing in my ears till this day. I have reflected on what the Prince said on that day and have been asking myself whether it is really true what we have a troubled Judiciary?. Each day, I see evidence of what Prince Charles was referring to and I ask myself, when is this going to end?

One of the major problems facing our Judiciary is the competence of a number of the Magistrates who Mann the Benches of our courts.

The level of incompetence amongst Magistrates is becoming very alarming in the Judiciary. Due to the shortage of skilled lawyers, students are being recruited from the law school with little formal training and virtually no formal practical experience to sit on the Bench, where they decide the fate of Sierra Leoneans at great detriment to the nation. Put quite simply, the Magisterial Bench is no place for a student.

The effects of the policy of recruitment of students into the Magisterial Bench are being seen to this day.

One such student Magistrate who was recruited to the Bench is Manuela Harding. Her record of academia as demonstrated by the certificates she claims to hold does not translate into demonstrable performances of professional competence as a Magistrate.

Only recently, the Standard Times Newspaper has published details of remarkable incompetence and bias displayed by Magistrate Harding. Judging from what I have read and seen, I felt compelled to offer this Magistrate some further tips in legal procedure particularly in Criminal Law in order to make our judiciary what it ought to be rather than what it is.

Briefly, the Executive Editor of the Standard Times Newspaper and his Deputy were summoned to court by one Abdulai Conteh, the Director of Finance at the NRA. The matter was assigned to 'Senior' Magistrate Manuela Harding. Prior to this matter, the newspaper had published stories about the manner in which Manuela Harding had handled a sexual matter in Makeni where she worked previously. Her handling of the matter led to calls for her to be removed from Makeni.

She had also displayed bias in refusing bail to a local fullah chief in Makeni, named according to the paper Osman Jalloh without even listening to the other side. This led to the newspaper publishing articles in the public interest about her abuse of power whilst sitting as a Magistrate at least on four occasions.

She had even threatened to have the Executive Editor, owner of the paper sent to Jail even though he was the Complainant in the matter as I read in the Monday edition of the paper. She was swiftly moved back down to Freetown. She may not be happy with the Standard Times Newspaper for publishing stories relating to her practice and must have been seeking out ways to exercise revenge on the owners of the newspaper.

Her opportunity came when Mr Neville and Co. appeared in her courtroom in front of her. Due to the biased and unprofessional manner she was handling the matter; they as accused persons (which is their right) gave their lawyers instructions to seek an order from

A TROUBLED JUDICIARY?

the high court to have the matter removed from Miss Harding's court to another court for trial. The lawyers politely asked Miss Harding to remove herself from the matter as they feared she would not be objective in dispensing justice due to the previous grudge she bore against the accused persons and the Standard Times Newspaper. Magistrate Harding not wanting to lose her opportunity to seek revenge refused to step down from the case. She adjourned the case for two days, (18th-20th May, 2011) held on to the case file, thereby preventing Defence team from accessing the file in order to make an application to the High Court for transfer to another court. She then returned two days later and in a three line 'ruling' committed the matter to the High Court for trial, without listening to the other side. The procedure in committing the matter to the High Court was deeply flawed and demonstrated the level of Miss Harding's competence and ignorance of basic criminal procedures.

This is not the first time she has displayed blatant ignorance of the law. She behaved in the same manner as the paper highlighted in the case against Emile Jengo, the Production Manager of Radio Maria 101FM, who was accused of a serious sexual assault on a young child.

This same newspaper was of the view that Magistrate Harding ought not to have handled the matter as she was also a part-time employee of the Fatima Institute in Makeni, owners of Radio Maria 101FM. It was clearly a conflict of interest for her to preside over the matter bearing in mind that the accused was her colleague.

The Standard Times Newspaper was vindicated in its publication when Magistrate Harding simply discharged the accused without proper consideration of the evidence, much to the anguish of the victim and her family. It is equally clear that in this present case against the Standard Times team, she has displayed blatant ignorance of the law and outright bias, which is unbecoming of a member of the Bench.

THE LAW

From the available evidence the accused persons were faced with two count charges under Section 26 of the Public Order Act 1965, of knowingly publishing a defamatory libel. On count 2 they faced a charge of publication of false news contrary to Section 32 (2) of the Public Order Act 1965. With respect to the offence on Count 1, it is an offence only triable on indictment (in the High Court) by virtue of the provisions of paragraph 6 of the second

schedule of the Courts (Amendment) Act 1981. Consequently when the accused appeared in court the Magistrate is not allowed to try the case and can only conduct a Preliminary Investigation (PI) in accordance with PART III of the Criminal Procedure Act 1965. She was therefore bound to conduct a PI by virtue of Section 108 of the Criminal Procedure Act 1965 which provides;

108. Where a person is before the Magistrate charge with an offence which is triable exclusively by the Supreme Court or in the opinion of the Magistrate ought to be tried by such court, the Magistrate shall conduct a preliminary investigation into the charge alleged, in accordance with the procedure laid down in this Part.

The procedure so far in the conduct of Preliminary investigations are concerned, are clearly set out in the above section. Magistrate Harding does not seem to be aware of this provision. After the Defence had requested her to recuse herself from the case, on account of her inability to be impartial, she simply refused to do so. The question right thinking people would ask themselves is "WHY WOULD A MAGISTRATE TAKE OFFENCE IF SHE IS REQUESTED TO RECLUSE HERSELF FROM A CASE TO AVOID BIAS OR CONFLICT OF INTEREST?" The Obvious answer is that the Magistrate either has an interest in the case or has an otherwise ulterior motive.

Most importantly at the time the Defence requested the Magistrate to recuse herself from the case, the Complainant was yet to conclude his cross examining with the Defense after his testimony. It is highly improper for a Magistrate who has been asked to recuse herself from a matter to simply continue to preside over the matter by giving a ruling or committing it to the High Court. The moment she is asked to recuse herself, she no longer has jurisdiction to continue presiding over the matter. Besides, she failed to rule on the matter of recusing herself from the proceedings and proceeded to commit the matter to the High Court in a biased manner

bearing in mind she had already been accused of such. The action is biased, unprofessional and wholly unacceptable. Miss Harding should hang her head in shame. The law on committals to the High Court are clear. Sections 115, 116, 117, 118 and 120 of the Criminal Procedure Act 1965 determines the time and the manner in which a matter is to be committed to the High Court.

115. (1) *After the examination of the witnesses called on behalf of the prosecution, and provided that the Court does not consider that the case should be dealt with in accordance with the provisions of section 118, the Court shall address the accused as follows— "The charge (or charges) is (or are)..... (read the charge or charges). Having heard the evidence do you wish to say anything in answer to the charge (or charges)? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial.*

And I want you to understand clearly that you have nothing to hope from any promise of favour, and nothing to fear from any threat which may have been held out to you to induce you to make any admission or confession of your guilt. But whatever you say now may be given in evidence notwithstanding such promise or threat." And the Court shall then hear the accused. (2)

The whole of the statement of the accused shall be recorded in full, and shall be shown or read to the accused, and he shall be at liberty to explain or add to his statement. (3) When the whole is made conformable to what the accused declares is the truth, the statement shall be attested by the Magistrate, who shall certify that such statement was taken in his presence and hearing and contains accurately the whole statement made by the accused. The accused shall sign or attest by his mark such record. If he refuses, the Court shall add a note of his refusal and the statement may be used as if he had signed or attested it.



Hirondelle News Agency

Tuesday, 24 May 2011

French lawyer bows out of Kabuga's special deposition proceedings

French lawyer, Emmanuel Altit, has withdrawn his request to appear in the ongoing special deposition proceedings in the case of the most wanted genocide fugitive, Félicien Kabuga, before the International Criminal Tribunal for Rwanda (ICTR).

In his decision dated May 18, 2011 on the lawyer's request for appointment to represent Kabuga's family in the proceedings, presiding Judge Vagn Joensen said, "on May 17, 2011, he (Emmanuel Altit) sent an e-mail stating that he was withdrawing his request to appear in these proceedings."

This follows the lawyer's failure to present in time his submissions, explaining whether he had any locus standi on the matter. According to the judge, he had invited the parties, Registrar of the Tribunal and Altit himself to file their submissions on the contentious issue not later than May 13, 2011.

"The parties and the Registrar filed timely submissions under strictly confidential cover. Altit requested and received an extension of filing deadline, but failed to make any submissions by May 16, 2011," he said, adding that the lawyer chose the following day to inform the Tribunal on his withdrawal decision.

Therefore, the judge found no other option than to declare the lawyer's request moot and dismissed it in its entirety. The proceedings commenced before the Tribunal on May 23, 2011 and Tanzanian lawyer, Bahame Nyanduga, has been appointed as Duty Counsel to defend Kabuga's interests in the matter.

In another decision, Judge Joensen granted the prosecution's request to have a batch of twelve Rwandan detainees transferred to the UNDF in Arusha to testify during the proceedings. "I find that the prosecution has fulfilled the requirements under Rule 90 bis for the transfer of the twelve detained witnesses," he said.

According to him, he was satisfied that the witnesses were not required for any criminal proceedings in progress in Rwanda during the period of their depositions. The presence of the detainees at the Tribunal, he said, would not extend the period of their detention in Rwanda.

Apart from Kabuga, who is alleged the main financier of the 1994 Tutsi genocide other fugitives whom the prosecution has requested for special deposition proceedings to safeguard evidence are Augustin Bizimana, former Minister of Defence and Major Protais Mpiranya, who was Commander of the Presidential Guard.

The Tribunal has also granted the prosecution's request for Bizimana, but no date has been fixed for commencement of the proceedings, while deliberation on the application relating to the case of Mpiranya was still pending.

According to sources at ICTR, Kabuga is said to be carrying out his commercial activities in Kenya, while Mpiranya is allegedly being protected by senior officials in Zimbabwe, whereas Bizimana may be hiding in the Democratic Republic of Congo (DRC).

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Tuesday, 24 May 2011

ICTR President assigns four permanent judges to appeals chamber

The President of the International Criminal Tribunal for Rwanda (ICTR), Judge Dennis Byron, has assigned four judges of Trial Chambers to the Appeals Chamber of the UN-backed Tribunal.

They are Pakistan Judge Khalida Rachid Khan, William Sekule from Tanzania, Judge Arlette Ramarason of Madagascar and Russian's Bakhtiyar Tuzmukhamedov.

President Byron announced in a statement he issued Monday that the assignments of the four judges shall take effect from the date on which their respective cases are completed.

Judge Khan is presently assigned to a joint Bizimungu et al trial commonly referred to Government II case involving four former interim government ministers during the 1994 Rwandan genocide.

They are Jerome Bicumumpaka (Foreign Affairs), Casimir Bizimungu (Health), Justin Mugenzi (Commerce) and Prosper Mugiraneza (Civil Service), currently waiting delivery of judgement.

Judges Sekule and Ramarason are handling another joint trial commonly known as Butare trial comprising six accused, including former Rwandan Minister for Women and Family Affairs, Pauline Nyiramasuhuko. The only woman indicted at ICTR and her co-accused are also waiting delivery of judgment in their case.

Sekule also presides the case of former Rwandan Planning Minister Augustin Ngirabatware, which is at defence hearing stage.

Judge Tuzmukhamedov is a member of the bench in the trial of ex-Rwandan Mayor Gregoire Ndahimana scheduled for closing arguments on September 21, 2011 and that of Youth Minister Callixte Nzabonimana, whose evidence phase has already been completed.

The president's assignment, according to the statement, was in line with Resolution 1878 (2009) of the United Nations Security Council, which amended Article 13 (3) of the Statute of the Tribunal.

It provides that the president may assign up to four additional Permanent Judges serving at ICTR Trial Chambers to the Appeals Chamber once their cases are complete. Before the amendment of the statutes of the tribunal, the president could appoint two permanent judges to the Appeals Chamber.

This is the first time for the president of the Tribunal to assign a large number of permanent judges from the Trial Chamber to the Appeals Chamber.

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The New Times (Kigali)

Wednesday, 25 May 2011

Rwanda: ICTR Appoints Judges to the Appeals Chamber

Gashegu Muramira

The President of the International Criminal Tribunal for Rwanda (ICTR), Dennis Byron, has appointed four permanent judges of the trial chambers of the tribunal to the Appeals Chamber.

The Judges are; Khalida Rachid Khan, William Sekule, Arlette Ramarason and Bakhtiyar Tuzmukhamedov.

A statement issued by Judge Byron, early this week, announced that the assignments shall be effective from the date on which their respective cases are completed.

"This follows consultations with the judges; bearing in mind the need to ensure trial experience from the tribunal in the work of the Appeals Chamber," reads an ICTR statement sent to The New Times yesterday.

Judge Khan is presently assigned to the Bizimungu trial, Judge Sekule, the Butare trial and the Ngirabatware cases, Judge Ramarason, the Butare trial case while Judge Tuzmukhamedov, the Ndahimana and Nzabonimana cases.

Judge Khan has presided over a number of judgements which include that of former director in the Ministry of Women and Family Affairs Jean Baptiste Gatete, who was found guilty of the 1994 Genocide against the Tutsi, in the Eastern Province.

Resolution 1878 (2009) of the United Nations Security Council amended Article 13 (3) of the Statute of the International Criminal Tribunal for Rwanda provided that the President may assign up to four additional permanent judges serving in the ICTR Trial Chambers to the Appeals Chamber of the ICTR once their cases are complete.

Africa Review

Wednesday, 25 May 2011

UN Rwanda tribunal hears evidence on 'genocide bankroller'



The Arusha-based UN tribunal on Rwanda Monday began hearing evidence against a businessman suspected of bankrolling Rwanda's 1994 genocide, who is now believed to be hiding out in Kenya.

Felicien Kabuga, who tops a list of the court's 10 most wanted, is accused of buying tens of thousands of machetes and supplying them to militia who in turn killed some 800,000 ethnic Tutsis and moderate Hutus in a 100-day spree.

The unprecedented court session was held under a clause of the tribunal's statutes, adopted by the judges in plenary session in May 2009, which provided for a special dispensation to allow for the collection of evidence to use in the event of a future trial of the accused in his absence.

Both a prosecutor and a defence lawyer were present, but the proceedings at the Tanzanian-based International Criminal Tribunal for Rwanda (ICTR) did not represent a formal trial.

Crucial suspects

"This is a new and important procedure that the ICTR is embarking upon," the tribunal's chief prosecutor Hassan Bubacar Jallow told AFP.

"The process is designed to ensure that the evidence against the accused is preserved and that the continued evasion of justice by the fugitives does not, in the event of unavailability of the witnesses, erode the ability of the prosecution to establish the case against the accused when they are eventually arrested and brought to trial."

During the hearing, Kabuga, who is believed to be hiding out mainly in Kenya, was represented by a court-appointed lawyer, the Tanzanian Bahame Tom Nyanduga.

In coming weeks, similar procedures will be adopted regarding Rwanda's former Defence minister Augustin Bizimana, who is believed to be hiding out in the Democratic Republic of Congo, and the former commander of the Presidential Guard, Major Protais Mpiranya, who is reportedly in Zimbabwe. Jallow said that the three men were crucial suspects and that it was vital to avoid losing any proof of their alleged guilt before they were brought to trial.

The ICTR was set up by the UN Security Council late in 1994 to try the key suspects in the genocide that swept across the small central African country between April and June of that year.